

REMARKS

I. Summary of Office Action

Claims 1, 8, 46-67, 69-76, 78, and 80-123 were pending in the above-identified patent application. Of those, claims 1, 8, 72-76, 78, 80, 81, 104-117, and 122 have been withdrawn from further consideration as being drawn to a non-elected invention.

Claims 46-67, 69-71, 82-103, 118-121, and 123 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,790,642 to Taylor et al. ("Taylor").

II. Summary of Applicants' Reply

Independent claims 46 and 88 have been amended to more particularly point out and distinctly claim the subject matter which applicants regard as their invention. Dependent claim 50 and dependent claims 90-93 and 95-97 have been amended to conform with the amendments to independent claims 46 and 88, respectively. Dependent claims 52 and 89 have been cancelled without prejudice.

The claim rejections are respectfully traversed.

III. The Claim Rejections

All of the claims—-independent claims 46, 53, 63, 82, and 88 and their respective dependent claims—have been rejected under section 103 as being unpatentable over Taylor.

Taylor discloses a system in which a plurality of service centers in a telecommunications network such as the public switched telephone system competitively bid for the rights to service a particular call. (Taylor, Abstract). An originating service center receives a request via the public switched telephone network or any other communication path to transmit facsimile information to a specified telephone number. (Taylor, col. 7, ll. 51-57). The originating service

center assembles a bid request and transmits the bid request to bidding service centers. (Taylor, col. 7, ll. 58-67). Each service center includes a costing algorithm which parses the information in the bid request and determines the cost to complete the call. (Taylor, col. 5, ll. 5-11). The cost information is transmitted from the bidding service centers back to the originating service center. (Taylor, col. 5, ll. 12-17). The originating service center compares the bids and selects the lowest bidding service center to make the call. (Taylor, col. 5, ll. 18-20). The information required, including any facsimile data to be transmitted, is sent to the lowest cost center, and the call is completed via the portion of the public switched telephone network associated with the lowest cost service center. (Taylor, col. 5, ll. 21-26).

A. The Rejection of Independent Claim 46

Independent claim 46 recites a method for creating a bidding process among telecommunication Providers. The method includes, in a moderating computer, “receiving bids to provide telecommunication service . . . , processing the bids to produce processed bid data, and storing the bids and the processed bid data in a data base of the moderating computer as first bidding data.” The method includes, in the moderating computer, “transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers.” As amended, the method includes, “in a computer adjunct to at least one telecommunication switch, performing at least a portion of the processing or communications functions of the moderating computer.”

In contrast to independent claim 46, Taylor fails to teach or suggest performing at least a portion of the processing or communications functions of a moderating computer in a computer adjunct to at least one telecommunication switch. Rather, Taylor discloses that processing and communications functions are all performed by the originating service center. As described

above, Taylor discloses that the originating service center assembles a bid request, transmits the bid request to bidding service centers, compares bids from the service centers, selects the lowest bidding service center to make the call, and transmits the information required to complete the call to the lowest cost center. Taylor does not disclose performing any portion of these functions in a computer adjunct to a telecommunication switch, nor does Taylor suggest this.

Accordingly, for at least this reason, Taylor fails to teach or suggest all the features of independent claim 46, and the Official Notice taken in the Office Action with regard to storage in a data base (Office Action, p. 4) fails to make up for this deficiency. Therefore, the rejection of claim 46 under section 103 should be withdrawn. In addition, dependent claims 47-51 and 118-119 are allowable at least because independent claim 46 is allowable. Thus, the rejections of dependent claims 47-51 and 118-119 are moot and should also be withdrawn.

B. The Rejection of Independent Claim 53

Independent claim 53 recites a method for creating a bidding process among telecommunication Providers. The method includes, in a moderating computer, “receiving bids to provide telecommunication service” and “transmitting Provider designation data to at least one telecommunication switch.” The method includes, “in the telecommunication switch, routing at least one call attempt in accordance with the Provider designation data.”

In contrast to independent claim 53, Taylor fails to teach or suggest transmitting Provider designation data to at least one telecommunication switch. Rather, as described above, Taylor discloses transmitting information required to complete a call, including any facsimile data to be transmitted, to the lowest cost service center. The information required to complete a call is not the claimed “Provider designation data.” In particular, since the information required to complete the call in Taylor is transmitted directly to the service center through which the call

will be routed, it follows that this transmitted information does not include data designating which service center will be routing the call. In addition, the information required to complete the call is transmitted back to a bidding service center, and not to a telecommunication switch as claimed.

Also in contrast to independent claim 53, Taylor fails to teach or suggest routing at least one call attempt in accordance with the Provider designation data in a telecommunication switch. Rather, Taylor discloses completing a call via the portion of the public switched telephone network associated with the lowest cost service center. The lowest cost service center is one of the bidding service centers, and not the claimed “telecommunication switch.” And, as described above, the lowest cost service center does not route the call in accordance with the claimed Provider designation data, since such data is not even transmitted by the originating service center to the lowest cost service center.

Accordingly, for at least these reasons, Taylor fails to teach or suggest all the features of independent claim 53, and the Official Notice taken in the Office Action with regard to storage in a data base (Office Action, p. 6) fails to make up for these deficiencies. Therefore, the rejection of the claim under section 103 should be withdrawn. In addition, dependent claims 54-62 and 120 are allowable at least because independent claim 53 is allowable. Thus, the rejections of the dependent claims are moot and should also be withdrawn.

C. The Rejection of Independent Claim 63

Independent claim 63 recites a method for creating a bidding process among telecommunication Providers. The method includes, in a moderating computer, “receiving bids to provide telecommunication service” and “transmitting at least a second portion of the first

switch data to the first subscribing switch.” The method includes, “in the first subscribing switch, routing at least one call attempt in accordance with Provider designation data.”

In contrast to independent claim 63, Taylor fails to teach or suggest transmitting switch data to a subscribing switch. Rather, Taylor discloses transmitting information required to complete a call, including any facsimile data to be transmitted, to the lowest cost service center. The lowest cost service center is one of the bidding service centers, and not a “subscribing switch” as claimed.

Also in contrast to independent claim 63, Taylor fails to teach or suggest routing at least one call attempt in accordance with Provider designation data in a subscribing switch. Rather, Taylor discloses completing a call via the portion of the public switched telephone network associated with the lowest cost service center. As set forth above, the lowest cost service center is one of the bidding service centers, and not the claimed “subscribing switch.”

Accordingly, for at least these reasons, Taylor fails to teach or suggest all the features of independent claim 63, and the Official Notice taken in the Office Action with regard to storage in a data base (Office Action, p. 6) fails to make up for these deficiencies. Therefore, the rejection of the claim under section 103 should be withdrawn. In addition, dependent claims 64-67, 69-71, and 121 are allowable at least because independent claim 63 is allowable. Thus, the rejections of the dependent claims are moot and should also be withdrawn.

D. The Rejection of Independent Claim 82

Independent claim 82 recites a method for conducting an automated bidding process among a plurality of telecommunication Providers. The method includes “receiving, from at least two telecommunication Providers, bids to provide telecommunication service” and

“transmitting at least a second portion of the processed bid information to at least one telecommunication switch.”

In contrast to independent claim 82, Taylor fails to teach or suggest transmitting processed bid information to at least one telecommunication switch. Rather, Taylor discloses transmitting information required to complete a call, including any facsimile data to be transmitted, to the lowest cost service center. The lowest cost service center is one of the bidding service centers, and not the claimed “telecommunication switch.”

Accordingly, for at least this reason, Taylor fails to teach or suggest all the features of independent claim 82, and therefore, the rejection of the claim under section 103 should be withdrawn. In addition, dependent claims 83-87 and 123 are allowable at least because independent claim 82 is allowable. Thus, the rejections of the dependent claims are moot and should also be withdrawn.

E. The Rejection of Independent Claim 88

Independent claim 88 recites a method for conducting an automated bidding process among a plurality of telecommunication Providers. The method includes “receiving, from at least two telecommunication Providers, bids to provide . . . telecommunication service.” As amended, the method includes “transmitting at least a portion of the Provider designation data to at least one telecommunication switch, or to a computer adjunct to the at least one telecommunication switch, for use in routing at least one call attempt.”

In contrast to independent claim 88, Taylor fails to teach or suggest transmitting Provider designation data to a telecommunication switch, or to a computer adjunct to a telecommunication switch, for use in routing at least one call attempt. Rather, as described above, Taylor discloses transmitting information required to complete a call, including any facsimile data to be

transmitted, to the lowest cost service center for use in completing the call. The information required to complete a call is not the claimed "Provider designation data." In particular, since the information required to complete the call in Taylor is transmitted directly to the service center through which the call will be routed, it follows that this transmitted information does not include data designating which service center will be routing the call. In addition, the information required to complete the call is transmitted back to a bidding service center, and not to a telecommunication switch for use in routing a call attempt as claimed.

Accordingly, for at least these reasons, Taylor fails to teach or suggest all the features of independent claim 88, and therefore, the rejection of the claim under section 103 should be withdrawn. In addition, dependent claims 90-103 are allowable at least because independent claim 88 is allowable. Thus, the rejections of the dependent claims are moot and should also be withdrawn.

IV. Conclusion

Applicants respectfully submit that, as described above, the cited references do not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited references show any of the elements recited in the claims. However, applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

In addition, each of the combinations of limitations recited in the claims includes additional limitations not shown or suggested by the cited references. Therefore, for these reasons as well, applicants respectfully request withdrawal of the rejection.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicant has described herein in connection with distinguishing

over the prior art as limiting to those specific features in isolation. Rather, applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicants have emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, applicants do not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, applicants are providing examples of why the claims described above are distinguishable over the cited prior art.

Applicants wish to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, applicants reserve the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely applicants' best attempt at providing one or more definitions of what applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that applicants are seeking for this application. Therefore, no estoppel should be presumed, and applicants' claims are intended to include a scope of protection under the Doctrine of Equivalents.

Further, applicants hereby retract any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintain the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, applicants specifically retract statements that one of ordinary

skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, applicants respectfully submit that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, applicants respectfully submit that the Application is in condition for allowance, and that such action is earnestly solicited.

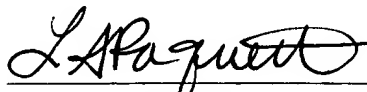
V. Authorization

The Director is hereby authorized to charge any additional fees which may be required for this Reply, or credit any overpayment, to Deposit Account No. 08-0219.

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Director is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,
Wilmer Cutler Pickering
Hale and Dorr LLP

Date: December 22, 2006



Laura A. Paquette
Registration No. 48,446
Attorney for Applicants

Wilmer Cutler Pickering
Hale and Dorr LLP
Customer No. 28089
399 Park Avenue
New York, New York 10022
Tel: 212-230-8800
Fax: 212-230-8888